

Message Text

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ORIGIN EB-08

INFO OCT-01 EUR-12 EA-12 ISO-00 L-03 CIAE-00 COME-00
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MARAD - T.CHRISTENSEN
JUSTICE - E.SEIDEN
DOT - R.THAYER
FMC - B.KEHOE

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FM SECSTATE WASHDC
TO AMEMBASSY LONDON IMMEDIATE
INFO AMEMBASSY BRUSSELS
AMEMBASSY PARIS
AMEMBASSY COPENHAGEN
AMEMBASSY HELSINKI
AMCONSUL HAMBURG
AMEMBASSY ATHENS
AMEMBASSY ROME
AMEMBASSY TOKYO
AMEMBASSY THE HAGUE
AMEMBASSY OSLO
AMEMBASSY MADRID
AMEMBASSY STOCKHOLM
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BRUSSELS ALSO FOR USEC. PARIS ALSO FOR USOECD
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E.O. 11652: N/A

TAGS: EWWT

SUBJECT: QUESTIONS FOR CONSIDERATION BY US-CSG WORKING
GROUP

REF: LONDON 8959

1. PLEASE PASS ASAP TO SECRETARIAT OF CONSULTATIVE SHIPPING GROUP (CSG) FOLLOWING LIST OF QUESTIONS WHICH US DELEGATION HOPES CSG DELEGATION CAN CONSIDER PRIOR TO U.S.-CSG WORKING GROUP MEETING DURING WEEK OF SEPTEMBER 11:

I. DEFINITION OF MALPRACTICES:

- 1) WHAT PRACTICES ARE ILLEGAL UNDER YOUR LAWS, OR IF NOT ILLEGAL, DISLIKED ON POLICY GROUNDS?
- 2) HOW EXTENSIVE ARE THESE ILLEGAL/DISLIKED PRACTICES AND IN WHAT TRADES ARE THEY MOST PREVALENT?
- 3) WHAT DO YOU BELIEVE ARE SHIPOWNERS' REASONS FOR ENGAGING IN THESE PRACTICES?
- 4) WHAT HAS BEEN THE EXPERIENCE WITHIN THE CSG OVER THE PAST SEVEN YEARS IN WORKING WITH THE 1971 RECOMMENDATION ON PREVENTION OF MALPRACTICES ADOPTED IN SEPTEMBER 1971

BY THE EUROPEAN SHIPPERS' COUNCIL AND CENSA?

- 5) IF AN AGREED US-CSG LIST OF UNACCEPTABLE PRACTICES CAN BE DEVELOPED, WHAT PROSPECTS AND METHODS DO YOU SEE FOR ELIMINATING PRACTICES WHICH ALL COUNTRIES AGREE ARE UNDESIRABLE (FOR INSTANCE, THROUGH EXISTING GOVERN-UNCLASSIFIED

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MENT SUPERVISION, IF ANY, OF CONFERENCE SELF-POLICING, OR THROUGH ALTERNATIVE FUTURE METHODS OF CONTROL)?

II. REPRESENTATION OF SHIPPER INTERESTS:

- 1) HOW IS A SHIPPERS' COUNCIL DEFINED IN YOUR COUNTRY? WHAT ARE ITS ROLE, RANGE OF ACTIVITIES AND MEMBERSHIP CRITERIA?
- 2) WHAT HAS BEEN YOUR EXPERIENCE WITH SHIPPERS' COUNCILS IN COUNTRIES OUTSIDE THE CSG (E.G., AUSTRALIA, ASEAN). DO THEY PROVIDE AN EFFECTIVE COUNTERBALANCE TO CONFERENCES? DO THEY UNDULY COMPLICATE SHIPPING?
- 3) ASSUMING THE CONTINUANCE OF OPEN CONFERENCES IN THE ATLANTIC AND PACIFIC TRADES, WOULD THERE BE A USEFUL ROLE FOR STRONG SHIPPERS' COUNCILS?
- 4) ASSUMING A SHIFT TO CLOSED CONFERENCES IN THE ATLANTIC AND PACIFIC TRADES, WOULD SHIPPERS' COUNCILS BE AN INDISPENSABLE COUNTERWEIGHT TO THE POWER OF CONFERENCES? COULD GOVERNMENT REGULATORY BODIES SUCH AS THE FMC PROVIDE THAT COUNTERWEIGHT INSTEAD?
- 5) HOW DO YOU INSURE THAT SHIPPERS' COUNCILS ADEQUATELY REPRESENT AND BENEFIT SMALL, AS WELL AS LARGE, SHIPPERS?

- 6) HOW DO YOU INSURE THAT SHIPPERS' COUNCILS, BY ASSUMING THE ROLE OF BARGAINING AGENT FOR SHIPPERS WITH CONFERENCES, DO NOT IN EFFECT MAKE IT IMPOSSIBLE FOR INDEPENDENTS TO OPERATE ALONGSIDE CONFERENCE MEMBERS.
- 7) HOW DO YOU INSURE THAT SHIPPERS' COUNCILS DO NOT BECOME FORA FOR PRICE-FIXING DISCUSSIONS OR OTHER ANTI-COMPETITIVE ACTIONS GOING BEYOND THE ISSUE OF SHIPPING TARIFFS?

III. METHODS OF ORGANIZING SHIPPING CONFERENCES:

- 1) WHAT ARE THE MAIN DISTINCTIONS (E.G., MEMBERSHIP REQUIREMENTS, LOYALTY ARRANGEMENTS, POOLING ARRANGEMENTS, GOVERNMENT SUPERVISION) BETWEEN CONFERENCES IN CSG TRADES
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WITH THE U.S. AND THE MORE "TRADITIONAL" CONFERENCES, SUCH AS THOSE BETWEEN EUROPE AND AUSTRALIA AND EUROPE AND THE FAR EAST?

- 2) HAVE DEFERRED REBATES ALMOST DISAPPEARED IN MANY "CLOSED" CONFERENCES AND BEEN REPLACED BY "IMMEDIATE CASH REBATES" AND "NET REBATES"? IF SO WHAT ARE THE REASONS FOR THIS CHANGE?

- 3) HOW EFFECTIVE ARE TYING DEVICES IN "TRADITIONAL" CONFERENCES IN ENSURING SHIPPER LOYALTY, AND HOW FREQUENTLY DO CONFERENCES ACTUALLY ENFORCE THE OBLIGATION OF SHIPPERS TO SHIP EXCLUSIVELY WITH CONFERENCE LINES?
- 4) WHAT IS THE ROLE OF INDEPENDENT OPERATORS IN TRADES SERVED BY TRADITIONAL CONFERENCES?
- 5) WHAT ARE THE PROCEDURES FOR NEGOTIATING ENTRY INTO A CLOSED CONFERENCE? AS A PRACTICAL MATTER, HOW DIFFICULT IS IT FOR NEWCOMERS TO ACHIEVE CONFERENCE MEMBERSHIP? WHAT GOVERNMENT OVERSIGHT IS PROVIDED?
- 6) WHAT ARE THE VOTING ARRANGEMENTS WITHIN TRADITIONAL CONFERENCES? ARE THE FLEETS OF THOSE STATES ACTUALLY INVOLVED IN THE TRADE PROTECTED UNDER VOTING PROCEDURES?
- 7) HOW DOES ONE PROVIDE ASSURANCE THAT COST SAVINGS FROM ANY EFFICIENCIES WHICH MAY BE ACHIEVED BY A STRONG CONFERENCE WILL REDOUND TO THE BENEFIT OF SHIPPERS?
- 8) WHAT PROCEDURES OR ECONOMIC STIMULI WILL ENSURE THAT CONFERENCE MEMBERS HAVE AN ADEQUATE INCENTIVE TO PURSUE TECHNOLOGICAL IMPROVEMENTS IN SHIPPING OPERATIONS?

IV. INTERGOVERNMENTAL PROCEDURES FOR CONSULTATION AND ACCESS TO INFORMATION:

- 1) ARE THE CONSULTATION PROCEDURES RELATIVE TO RESTRICTIVE BUSINESS PRACTICES DEVELOPED IN THE OECD APPROPRIATE
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TO SHIPPING? IF NOT, IN WHAT SENSE ARE THEY DEFICIENT
IN RELATION TO SHIPPING, AND WHAT ADDITIONAL FEATURES
DO YOU BELIEVE ARE REQUIRED TO MAKE THEM APPROPRIATE
FOR DEALING WITH SHIPPING QUESTIONS?

2) SHOULD PARTIES OTHER THAN THE U.S. AND CSG MEMBER
COUNTRIES BE INVOLVED IN CONSULTATION ARRANGEMENTS (E.G.,
OTHER OECD COUNTRIES)?

3) WHAT ARE THE POLICIES OF THE VARIOUS CSG GOVERNMENTS
ON COMPLIANCE WITH U.S. SUBPOENAS FOR INFORMATION
LOCATED WITHIN THEIR BORDERS? WHAT IS THE REASONING
BEHIND THESE POLICIES?

4) WHEN THERE ARE PROVISIONS AGAINST AUTOMATICALLY
COMPLYING WITH U.S. SUBPOENAS, WHAT PROCEDURES ARE
FOLLOWED WITHIN THE CSG GOVERNMENTS FOR CONSIDERING
WAIVER REQUESTS AND WHAT STANDARDS ARE APPLIED? VANCE

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